THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 13671 OF 2006

Date: 06.07.2006

Between:

Narendra M Agarwal & others

.... Petitioners

and

The Revenue Divisional Officer,
Hyderabad & another

.... Respondents

O R D E R :

The second respondent purportedly exercising jurisdiction under the Andhra Pradesh Land Encroachment Act, 1905 (for short

'the Act') passed an order dated 24.06.2006 declaring the petitioners to be in unauthorized occupation and possession of Government land and directing them to vacate the premises within seven days as the land is required for public purpose namely widening of road from Liberty junction to Narayanaguda flyover. By the notice dated 24.06.2006 issued under Section 6 of the Act, the petitioners were required to vacate the encroached land within seven days from the date of service of the notice. Notice was received by the petitioners on 28.06.2006 and they preferred an appeal to the first respondent on 03.07.2006 along with an application for interim relief/interim stay of the order of the second respondent.

Sri C. Sudesh Anand, learned counsel for the petitioners states that since the petitioners are in occupation of the land for over 75 years, they have perfected their title to the land by adverse possession and such right cannot be divested by taking recourse to summary proceedings under the Act. In substance, they assail the second respondent's order dated 24.06.2006 declaring them as encroachers of Government land.

In the considered view of this Court, these issues and the validity of the second respondent's order dated 24.06.2006 cannot be gone into by this Court under Article 226 of the Constitution of India, having regard to the fact that the petitioners have preferred the appellate remedy to the first respondent. The petitioners cannot be permitted to pursue parallel proceedings, one before the statutory appellate authority and the other for judicial review, since a conflict of judicial and quasi-judicial orders may ensue thereby. As the petitioners have earlier chosen the appeal remedy, the first respondent will have to consider the validity of

the second respondent's order dated 24.06.2006 at the appropriate time.

However, as the petitioners are facing the threat of eviction consequent on the second respondent's order dated 24.06.2006 and the second respondent's notice dated 24.06.2006 issued under Section 6 of the Act; and as the petitioners have sought interlocutory relief in the appeal filed by them on 03.07.1006, the first respondent is required to consider the petitioners' application for interlocutory relief expeditiously and before the threat of the petitioners' eviction assumes gravity and proximity.

The writ petition is accordingly disposed of at the stage of admission directing the first respondent to expeditiously and in any event within a period of 48 hours from the date of receipt of a copy of this order consider and pass appropriate orders on the petitioners' application for interim relief in their appeal dated 03.07.2006. Nothing in this order shall be considered as an expression by this Court either on the merits of the second respondent's order dated 24.06.2006 or on any of the petitioners' claims in this writ petition. The first respondent is at liberty to pass an order on merits of the petitioners' claims. However, the first respondent shall pass a reasoned order even on the interlocutory application. For a period of one week from today, the petitioners shall not be dispossessed or evicted from the lands in question.

06.07.2006

ksld